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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

EVAN TOOLAJIAN on behalf of himself  
and all others similarly situated;

Plaintiff,

v.

AIR METHODS CORPORATION, a  
Delaware corporation, and DOES 1  
through 10, inclusive,

Defendants.

CASE NO.: 3:18-cv-06722-AGT

**AMENDED JOINT STIPULATION OF  
CLASS ACTION SETTLEMENT AND  
RELEASE**

1 **LONNIE D. GIAMELA, SBN 228435**  
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12 Attorneys for Defendant  
13 AIR METHODS CORPORATION  
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1 This Amended Joint Stipulation Of Class Action Settlement And Release is entered into  
 2 by PLAINTIFF EVAN TOOLAJIAN, on the one hand, and Defendant AIR METHODS  
 3 CORPORATION on the other.

4 **SECTION 1: FACTUAL BACKGROUND**

5 1. Plaintiff EVAN TOOLAJIAN is currently employed by Defendant AIR  
 6 METHODS CORPORATION.

7 2. On September 20, 2018, Plaintiff filed his class action complaint in Alameda  
 8 County Superior Court asserting wage and hour claims under the California Labor Code and  
 9 Wage Order 9. On November 5, 2018, AMC removed the action to this Court under the Class  
 10 Action Fairness Act, the Railway Labor Act (“RLA”), the Airline Deregulation Act, and the  
 11 “federal enclave” doctrine.

12 3. On December 13, 2018, Plaintiff submitted his PAGA notice to the California  
 13 LWDA to administratively exhaust his PAGA claim.

14 4. The parties consented to the jurisdiction of a Magistrate Judge for all purposes.  
 15 On February 28, 2019, Plaintiff filed the operative first amended complaint (“FAC”) to add his  
 16 PAGA claim. By the FAC Plaintiff seeks, on behalf of himself and all other AMC pilots in  
 17 California (“Pilots”), payment of unpaid wages, missed meal and rest period premiums,  
 18 reimbursement of business expenses, wage statement penalties, restitution of compensation  
 19 unlawfully withheld pursuant to California’s Unfair Competition Law (“UCL”), Cal. Bus. &  
 20 Prof. Code § 17200 *et seq.*, and PAGA civil penalties on behalf of the State of California and all  
 21 aggrieved employees. The FAC prays for monetary damages, penalties, and restitution for the  
 22 class claims, civil penalties for the PAGA claim, certification of the class, a declaratory judgment,  
 23 and injunctive relief.

24 5. The parties agreed that early resolution of AMC’s preemption defense based on  
 25 the RLA would facilitate both sides’ evaluation of the claims. Accordingly, on April 22, 2019  
 26 AMC filed its summary judgment motion regarding RLA preemption. Thereafter, the parties  
 27 conducted discovery related to the summary judgment motion, including depositions of two  
 28 30(b)(6) witnesses regarding AMC’s timekeeping and pay practices for Pilots. AMC’s motion

1 was heard on August 6, 2019.

2 6. On August 20, 2019, the Court denied AMC's Motion for Summary Judgment,  
3 finding that Plaintiff's claims are not preempted by the RLA.

4 7. On September 11, 2019, the Parties attended a settlement conference with the  
5 Hon. Jacqueline Scott Corley. The case did not settle at that conference, however, Judge Corley  
6 made a "mediator's proposal" for the parties to consider. The parties accepted such mediator's  
7 proposal, the terms of which (including the Gross Settlement Amount) are reflected in, and are  
8 consistent with, the terms of this Agreement.

9 8. To avoid the risks and costs inherent in further litigating the aforementioned  
10 matters, the Parties desire to fully and completely settle certain claims asserted in the Action, as  
11 is more specifically described herein.

12 9. The Parties stipulate and agree, subject to the approval of the Court, that the  
13 settlement of the Action shall be effectuated upon and subject to the following terms and  
14 conditions.

## 15 **SECTION 2: DEFINITIONS**

16 The following defined terms used in this Settlement Agreement and all exhibits thereto  
17 will have the meanings given them below.

18 10. Action. "Action" or "Lawsuit" shall mean the civil action currently pending in  
19 the United States District Court for the Northern District of California, entitled *Evan Toolajian*,  
20 *et al. v. Air Methods Corporation*, Case No. 3:18-cv-06722-EDL.

21 11. Agreement. "Agreement," "Settlement," or "Settlement Agreement" means this  
22 Settlement Agreement.

23 12. Class. "Class," "Class Members," "Settlement Class," or "Settlement Class  
24 Members" shall mean all current and former Pilots employed by AMC in California at any time  
25 during the Class Period.

26 13. Class Administrator. "Class Administrator" means the third-party entity jointly  
27 selected by the Parties and approved by the Court to establish, maintain and administer the QSF  
28 defined *infra*, under Internal Revenue Code § 468B and Treasury Regulation §1.468B-1 and to

1 provide notice to the Class as well as to perform other duties relating to the administration of the  
 2 Settlement (e.g., calculation and payment of claims submitted by Claimants, submissions to tax  
 3 authorities, etc.). The Parties agree that Simpluris, Inc. is an appropriate third-party selected to  
 4 provide notice to the Class and to perform other duties of administration as provided in this  
 5 Agreement. “Class Administrator” also means any subsequent such third party who, the Parties  
 6 may stipulate (subject to Court approval) to assume such duties, or who the Court may otherwise  
 7 appoint. On request, each Party shall be entitled to know from the Class Administrator any other  
 8 Party’s communications to the Class Administrator relating to a Class Member and to receive  
 9 copies of any written communications by any other Party to the Class Administrator relating to  
 10 a Class Member, except for information containing the personal contact information of a class  
 11 member (e.g. address, social security number) that shall be utilized by the Class Administrator  
 12 to administer the settlement.

13 14. Class Administrator Declaration. “Class Administrator Declaration” shall mean  
 14 declaration(s) attesting, in detail, to the steps taken through the date of such declaration in  
 15 performing the Class Administration Duties, that the procedures contemplated below are  
 16 complete, and that the Class Administrator has all information needed to perform any remaining  
 17 Class Administration Duties. This includes a declaration that shall be filed with the Court as part  
 18 of the Final Approval Motion that a) describes the Class Administrator’s performance of its duties  
 19 under the Settlement Agreement and the Settlement Class Members’ responses to Class Notice  
 20 as detailed below and b) provides admissible evidence to support the payment of Class  
 21 Administration Costs. This also includes a declaration attesting to calculation of the amounts  
 22 each Eligible Class Member’s Eligible Class Member Shares, once the amounts of the other  
 23 components of the Gross Settlement Fund are determined by the Court on Final Approval, which  
 24 declaration the Class Administrator shall deliver to Class Counsel and Defendant’s Attorneys no  
 25 later than ten (10) days before the date that the Court sets for a compliance hearing and which  
 26 declaration shall be filed with the Court and served at least five (5) days before the compliance  
 27 hearing.

28 15. Class Administration Costs. “Class Administration Costs” shall mean the fees

and expenses reasonably and necessarily incurred by the Class Administrator as a result of performing the Class Administration Duties, estimated to be up to \$8,000. Class Administration Costs include, but are not limited to, reasonable fees and expenses incurred by the Claims Administrator for: (1) preparation and mailing of the Settlement Notice and Forms; (2) receipt and adjudication of Forms submitted by Class Members for payment under this Settlement; (3) establishment and maintenance of the “Qualified Settlement Fund,” defined *infra*, under Internal Revenue Code § 468B and Treasury Regulation § 1.468B-1; (4) compliance with the reporting and any payment obligations imposed by Treasury Regulation § 1.468B-2(1)(2) from the Qualified Settlement Fund (as well as the reporting and any payment obligations to state and local tax authorities with respect to the Qualified Settlement Fund), and paying any tax imposed on the Qualified Settlement Fund pursuant to Treasury Regulation § 1.468B-2(a) and other applicable provisions of Federal, state or local law imposing tax on the Fund; (5) preparing, filing, and issuing any required tax forms related to payments made from the Qualified Settlement Fund; (6) calculation and distribution of settlement payments to Eligible Class Members Claims; and (7) performance of any other actions specified in this Agreement or mutually requested by the Parties in writing. The payment of the Class Administration Costs shall be paid by the Gross Settlement Fund. The Class Administrator shall include in its Class Administrator Declaration to be included with the Final Approval Motion admissible evidence to support Court approval of payment by Defendant of Class Administration Costs, including Class Administration Costs relating to performance of the Class Administrator’s duties after entry of the Final Approval Order. Notwithstanding the foregoing, the Class Administrator after entry of the Final Approval Order for good cause shown may apply to the Court for a further payment of Class Administration Costs from the Gross Settlement Fund, which application also shall be supported by a Class Administrator Declaration with admissible evidence.

16. Class Administration Duties: “Class Administration Duties” shall mean the duties of the Class Administrator as set forth in this Agreement and as may be ordered by the Court. It shall include, but not be limited, to making calculations of payments, reporting to appropriate tax authorities, effecting class notice, reporting on the performance of its duties and responses to

1 class notice, resolving disputes as provided herein, and responding to a Party's request for  
 2 information pursuant to paragraph 13 above. Any reference herein to mailing to or by the Class  
 3 Administrator or to or from others shall refer to U.S. mail, first class.

4 17. Class Counsel. "Class Counsel" or "Plaintiff's Counsel" refers to Hunter Pyle  
 5 Law and Olivier Schreiber & Chao LLP, or any such further attorneys for the Class, Named  
 6 Plaintiff, and/or Eligible Class Members as may be approved by the Court.

7 18. Class Notice. "Class Notice" shall mean a notice to Class Members, substantially  
 8 in the form indicated in Exhibit "B" hereto, and distributed by the Class Administrator in  
 9 accordance with paragraphs 58 and 59 below.

10 19. Class Member Objection. "Class Member Objection" shall mean a Class  
 11 Member's written objection made pursuant to the provisions of paragraph (61(a) below.

12 20. Class Member Objector. "Class Member Objector" shall mean a Class Member  
 13 who submits a Class Member Objection.

14 21. Class Member Share. "Class Member Share" shall mean the portion of the Net  
 15 Settlement Fund that will be due and payable to each Eligible Class Member, as defined below,  
 16 subject to legally required withholdings, deductions, and contributions.

17 22. Class Period. "Class Period" shall mean the time period from September 20, 2014  
 18 to the date of Preliminary Approval. It is the period to which the Release of Claims applies.

19 23. Complaint. "Complaint" shall mean the "First Amended Complaint" filed on or  
 20 about February 29, 2019.

21 24. Court. "Court" refers to the United States District Court for the Northern District  
 22 of California.

23 25. Date of Preliminary Approval. The "Date of Preliminary Approval" means the  
 24 day on which the Court enters an Order of Preliminary Approval.

25 26. Defendant or AMC. "Defendant" or "AMC" shall mean Defendant AIR  
 26 METHODS CORPORATION.

27 27. Defendant's Counsel. "Defendant's Attorneys," "Defense Counsel," or "Counsel  
 28 for Defendant" shall mean Fisher & Phillips LLP, or such other counsel as may appear for

Defendant in the Action.

28. Effective Date. “Effective Date” shall mean the date on which all of the following have occurred:

- a) Entry by the Court of an order of Final Approval of the Settlement;
- b) Service on Defendant of written notice of such entry of order of Final Approval, or Defendant’s express waiver of such notice; and
- c) Final Approval has become Final: For purposes of this provision, “Final”

means:

- (1) if no Class Member Objections are made and/or are made and withdrawn, the later of the date the Court enters its order granting Final Approval of the settlement or all Class Member Objections are withdrawn;
- (2) if any Class Member Objection is made and is not withdrawn in writing, and if no appeal, review or writ by the Class Member Objector is sought from the Order Granting Final Approval, the twenty-first (21st) day after entry of the Order Granting Final Approval;
- (3) if rehearing, reconsideration and/or appellate review of the Order Granting Final Approval is sought by a Class Member Objector, the day after any and all avenues of rehearing, reconsideration and appellate review have been exhausted and no further rehearing, reconsideration or appellate review is permitted, and the time for seeking such review has expired, and the Order Granting Final Approval has not been modified, amended or reversed in any way; or
- (4) if a Class Member Objector appeals from any ruling by the Court overruling such objection in whole or in part, the earlier of the date when the Order Granting Final Approval has been affirmed on



1 appeal or the date when the Class Member Objector withdraws his  
 2 or her Class Member Objection.

3 d) The existence of a sufficient number of Eligible Class Members such that the  
 4 number of Class Members who, as of the deadline for submission of Opt-Out  
 5 Requests are not Eligible Class Members, does not exceed seven-and-one-half  
 6 (7.5) percent of the total Class. If the number of Class Members who are not  
 7 Eligible Class Members by virtue of having submitted Opt-Out Requests as of  
 8 such date equals or exceeds seven-and-one-half (7.5) percent of the total Class,  
 9 then Defendant shall have the exclusive and absolute right (but not the  
 10 obligation) to deem this Settlement Void *Ab Initio* only upon timely written  
 11 notice filed with the Court and served on Class Counsel and the Class  
 12 Administrator within ten (10) days of Defendant's having received written  
 13 notice from the Class Administrator that seven-and-one-half (7.5) percent or  
 14 more of the Eligible Class Members have elected to exclude themselves from  
 15 the settlement. In that event, Defendant shall be responsible for paying any  
 16 costs of settlement administration incurred up to and including the date of  
 17 Defendant's notice.

18 29. Eligible Class Member. "Eligible Class Member" means a Class Member who is  
 19 not an Opt-Out.

20 30. Final Approval Order. "Final Approval Order" shall mean an order of the Court  
 21 finally approving this Settlement and granting Class Certification.

22 31. Final Approval Hearing. "Final Approval Hearing" shall mean the hearing on a  
 23 motion for Final Approval.

24 32. Gross Settlement Amount. "Gross Settlement Amount" means Defendant's  
 25 payment of One Million Seven Hundred and Fifty Thousand United States Dollars  
 26 (\$1,750,000.00) and shall include (1) the amount to be paid to the California Labor Workforce  
 27 and Development Agency (LWDA); (2) Class Administration Costs; (3) the Named Plaintiff  
 28 Service Award; (4) Class Counsel's Attorneys' Fees and Costs; and (5) payments to the

1 Settlement Class. It does not include Defendant's share of any applicable payroll taxes.

2 33. Gross Settlement Fund. "Gross Settlement Fund" means the Gross Settlement  
3 Amount, consisting of all payments which shall be paid into the QSF to satisfy Defendant's  
4 financial obligations under the terms of this Settlement. This consideration shall be used to  
5 resolve the claims at issue in this Settlement, as set forth herein, and is intended to constitute a  
6 qualified settlement fund within the meaning of Internal Revenue Code § 468B and Treasury  
7 Regulation § 1.468B-1. The Gross Settlement Fund includes, without limitation: attorneys' fees  
8 and costs as awarded by the Court, Class Administration Costs, the LWDA Fund, the Net  
9 Settlement Fund, Eligible Class Members' portion of withholdings, contributions, deductions,  
10 taxes, fees and any other amounts due to government agencies and/or tax authorities in relation  
11 to any payments pursuant to this Agreement, including of Class Member Shares. It does not  
12 include Defendant's portion of withholdings, contributions, deductions, taxes, fees and any other  
13 amounts due to government agencies and/or tax authorities in relation to any payments pursuant  
14 to this Agreement, which, as calculated by the Class Administrator, which Defendant shall,  
15 forthwith, upon the Class Administrator's request, deposit into the Gross Settlement Fund for  
16 payments by the Class Administrator.

17 34. LWDA. The "LWDA" shall mean the California Labor and Workforce  
18 Development Agency.

19 35. LWDA Fund. "LWDA Fund" shall mean \$75,000 (75% of a \$100,000 penalty)  
20 of the Gross Settlement Fund which shall be paid out of the QSF to the LWDA in satisfaction of  
21 penalties payable to the LWDA pursuant to PAGA. Eligible Class Members shall be deemed to  
22 have waived their right to their statutory portion of the stipulated penalty amount, which amount  
23 shall be included in the Net Settlement Fund.

24 36. Named Plaintiff. "Named Plaintiff" shall mean Plaintiff EVAN TOOLAJIAN.

25 37. Net Settlement Fund. "Net Settlement Fund" shall mean that part of the Gross  
26 Settlement Fund to be distributed to the Eligible Class Members and PAGA Group Members. It  
27 excludes (a) Class Administration Costs, (b) the Service Award to Named Plaintiff (c) Class  
28 Counsel's Attorneys' Fees and Costs, and (d) payment to the LWDA.

38. Notice Packet: “Notice Packet” shall mean a packet mailed by the Class Administrator pursuant to paragraphs 58 and 59 below, containing the Class Notice and any other accompanying documents required by this Settlement and/or Preliminary Approval.

39. Opt-Out(s). “Opt-Out(s)” refers to Class Members who have submitted an Opt-Out Request.

40. Opt-Out Request. “Opt-Out Request” means a timely and valid written request for exclusion from the Settlement by a Class Member, pursuant to the provisions of paragraph 61(c) below.

41. PAGA. “PAGA” means the California Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, et seq.

42. PAGA Period. The “PAGA Period” is December 13, 2017 to the date of Preliminary Approval.

43. PAGA Group Members. The “PAGA Group Members” are all Class Members employed by AMC in California during the PAGA Period.

44. Parties. “Parties” shall mean, collectively, Defendant and the Named Plaintiff.

45. Party. “Party” shall mean, individually, one of the Parties.

46. Preliminary Approval/Preliminary Approval Order. “Preliminary Approval” and “Preliminary Approval Order” shall mean an order of the Court preliminarily approving this Settlement, granting conditional Class Certification for purposes of the Class Administration Procedures, certifying Class Counsel, approving the form of Class Notice, establishing Class Administration Procedures, and scheduling a Final Approval Hearing. A proposed Preliminary Approval Order is attached hereto as Exhibit “D”.

47. QSF / Qualified Settlement Fund. “QSF” or “Qualified Settlement Fund” shall mean the Qualified Settlement Fund established by the Class Administrator into which all payments by Defendant into the Gross Settlement fund shall be deposited and from which all payments provided in this Settlement shall be made, including Class Administration Costs, the LWDA Fund, attorneys’ fees and costs, Eligible Class Member Shares, and Eligible Class Members’ and Defendant’s portions of withholdings, contributions, deductions, taxes, fees and

any other amounts due to government agencies and/or tax authorities.

48. Released Claims. “Released Claims” shall have the same meaning as that term is defined in Exhibit “C” hereto. The Release shall become effective upon the Effective Date and Defendant’s performance of this Agreement.

49. Released Parties. “Released Parties” shall have the same meaning as that term is defined in Exhibit “C” hereto.

50. Service Award. “Service Award” shall mean the amount approved by the Court to be paid to the Named Plaintiff for his effort in coming forth as a class representative.

51. Void *Ab Initio*. “Void *Ab Initio*” shall mean a circumstance as provided in this Agreement or by Order of this Court in which this Agreement is null and void and the Parties shall be returned to conditions such that the Agreement had never been entered into.

52. W-2 Income. “W-2 Income” refers to gross income paid to a Class Member by AMC while holding a Settlement Class Member position during 2014 through the pay period immediately preceding the end of the Class Period. When a Class Member has occupied within a given calendar year both a Settlement Class Member position and a non-Class position, the W-2 Income in the Settlement Class Member position shall be determined by the gross income earned in any pay period in which the Settlement Class Member occupied a Settlement Class position. For example, if a Settlement Class Member occupied a Settlement Class position from the start of a year until the middle of a pay period part way through the year, his or her W-2 Income would include his or her gross income through the pay period in which his or her status changed. In another example, if a Settlement Class Member occupied a non-Settlement Class position from the start of the calendar year until the middle of a pay period in the middle of the year and thereafter occupied a Settlement Class position to the end of that year, his or her W-2 Income would include the gross income for the pay period in which his or her status changed to the end of the year.

### SECTION 3: TERMS AND CONDITIONS OF SETTLEMENT

In addition to the definitional elements set forth above, the terms and conditions of the class settlement shall be as follows:

1           52.   Certification for Settlement Purposes Only. The Parties stipulate that, for  
 2 purposes of this Settlement only, Defendant shall not challenge Class Certification, including by  
 3 way of appeal and/or a motion for de-certification for the Released Claims, unless this Settlement  
 4 should become Void *Ab Initio*. When moving for preliminary approval of the Settlement, Named  
 5 Plaintiff shall seek class certification of all claims alleged in the Complaint.

6           53.   Contentions and Defenses: Compromise. The Parties have determined that this  
 7 Settlement represents a fair and reasonable compromise of disputed claims for wages and other  
 8 monetary and non-monetary relief, following a reasonably thorough investigation. The Parties  
 9 have entered into this Settlement to avoid the inherent risks and costs of further litigation. Named  
 10 Plaintiff does not stipulate that this Settlement represents the maximum extent of such relief to  
 11 which he or the Class would be entitled if the Action were to be further litigated. Defendant does  
 12 not stipulate that, should the Action be further litigated, Named Plaintiff and/or the Class would  
 13 be entitled to any relief whatsoever. Neither Named Plaintiff nor Defendant admits to any  
 14 unlawful conduct. The Parties hereby reserve all of their rights to litigate the Action and seek all  
 15 available forms of relief should this Settlement be declared Void *Ab Initio*. Nothing in this  
 16 Agreement waives any claim, argument, defense or right to appeal that any Party has with respect  
 17 to any claim not being released.

18           54.   Defendant's Class Member Communications. Defendant will instruct its officers,  
 19 directors, managers and supervisors that, should they be contacted by Class Members or persons  
 20 who believe they may be Class Members in relation to this Agreement, such officers, directors,  
 21 managers and supervisors should make no comment except for directing the employee(s) to  
 22 Defendant's Human Resources department, who will be instructed to direct such Class Members  
 23 to the Class Administrator and to provide such Class Members with contact information for the  
 24 Class Administrator. The Parties and their counsel warrant and certify that they have not  
 25 encouraged and will not encourage any Class Member to opt out or object to the settlement and  
 26 will take no such steps.

27           55.   Preliminary Approval. As soon as possible following execution of this  
 28 Agreement, Class Counsel shall move the Court for Preliminary Approval. Class Counsel will

1 submit therewith a proposed order to the Court in the form attached hereto as Exhibit “D.” Any  
 2 revised versions of Exhibit “D” that will be filed with the Court, following execution of this  
 3 Agreement, must be provided to Defendant’s Attorneys in advance of the filing for review. The  
 4 Parties shall give all reasonable cooperation necessary to obtain Preliminary Approval from the  
 5 Court.

6 56. Class Administration Procedures – Defendant’s Supplying Class List and Other  
 7 Class Information. Within twenty-one (21) days of entry of Preliminary Approval, Defendant  
 8 shall cause to be delivered by email or otherwise to the Class Administrator an Excel spreadsheet  
 9 of the Class Members that includes their a) names, b) last known home address(es), c) full social  
 10 security numbers, d) the number of workweeks worked during the Class Period; e) the number  
 11 of workweeks worked during the PAGA Period, f) their highest regular hourly rate during the  
 12 Class Period; and g) their email address, if known. All of which information shall be based upon  
 13 Defendant’s reasonably available business records and/or the best available personal knowledge  
 14 of Defendant’s employees and agents.

15 57. Posting of Important Case Documents on Class Administrator’s Website: Within  
 16 fourteen (14) days of entry of the Preliminary Approval Order, the Class Administrator shall  
 17 create a website and post important case documents that shall include the following: a) the Class  
 18 Notice as approved by the Court, b) the First Amended Complaint, c) Defendant’s Answer to the  
 19 First Amended Complaint d) all papers filed in conjunction with the preliminary approval motion  
 20 e) although included in said papers, separately the Settlement Agreement, and f) the Preliminary  
 21 Approval Order. The Class Administrator shall also post Plaintiff’s Motion for Attorneys’ Fees  
 22 and Costs on the website at least 35 calendar days prior to the deadlines for Class Members to  
 23 opt out of the Settlement or object to the Settlement. When the posting is completed, the Class  
 24 Administrator shall notify Class Counsel and Defendant’s Attorneys that the posting is complete.

25 58. Class Administration Procedures – Notice to Class By U.S. Mail And Email.  
 26 Within fourteen (14) days after delivery of the information described in paragraph 56 above, the  
 27 Class Administrator will mail a Notice Packet to each Class Member via United States Mail  
 28 and/or in accordance with Preliminary Approval Order. Prior to such mailing, the Class

1 Administrator will calculate the estimated settlement amount for each respective Class Member,  
2 based upon an assumption that all Class Members will become Eligible Class Members, that no  
3 Class Member Objections, Opt-Out Requests, or other disputes pursuant to paragraph 61 below  
4 will be submitted, and that no Class Members will be added to the Class after the date this  
5 Agreement is executed. The amounts of such estimated Eligible Class Member Shares will be  
6 disclosed on an individual basis in each Class Member's respective Class Notice.

7 59. The Class Administrator will also email the Notice Packet to each Class Member  
8 for whom Defendant has provided an email address.

9 60. Prior to mailing the Notice Packet, the Class Administrator will check the  
10 addresses provided by Defendant against the United States Postal Service National Change of  
11 Address database. If any mailed Notice Packets are returned as undeliverable, then the Class  
12 Administrator shall promptly perform one "skip trace" or similar, customary reasonable search  
13 and shall promptly re-mail the same Notice Packet (or a true and correct copy thereof) to any  
14 new addresses disclosed by such search. In addition, the Class Administrator shall promptly mail  
15 a Notice Packet to any further address that either Party may provide in response to the Class  
16 Administrator's written notice that a Class Member's Notice Packet was returned undeliverable.  
17 If the process set forth in this paragraph and any other procedures ordered by the Court are  
18 followed, the Class Notice will be deemed to be adequately provided to all Class Members. In  
19 the event the procedures in the Agreement are followed and a Class Member, nonetheless, does  
20 not receive the Notice Packet, the intended recipient shall remain a Class Member and will be  
21 deemed an Eligible Class Member unless such intended recipient submits a Class Member Opt-  
22 Out Request within the allotted time, described in paragraph 61(c) below.

23 61. Class Administration Procedures – Class Member Objections, Opt-Out Requests,  
24 and Disputes Concerning Class Member Status.

25 a) *Class Member Objections – Filing With The Court:*

26 Any Class Member who has not submitted a request for exclusion may object to  
27 this Settlement, or any portion thereof, by filing a written objection with the  
28 Court, and supporting papers, if any, no later than forty-five (45) days following



the date of the first mailing of the Notice by the Settlement Administrator (“**Objection Deadline**”). A written objection must clearly identify the case name and number (*Toolajian v. Air Methods Corporation*, Case Number 3:18-cv-06722-JCS), contain the objecting person’s full name, current address, include all objections and the reasons therefore, and include any and all supporting papers (including, without limitation, all briefs, written evidence, and declarations). All written objections and supporting papers must be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, or by filing them in person at any location of the United States District Court for the Northern District of California, and be filed or postmarked on or before the Objection Deadline. A Class Member who desires to object but who fails to comply with the objection procedure set forth herein shall be deemed not to have objected.

b) *Class Member Objections – Responses*: Upon the filing of any documents purporting to be objections, Class Counsel and Defendant’s Counsel shall meet and confer to discuss the objections.

c) *Opt-Out Requests*: Any member of the Settlement Class who wishes to make an Opt-Out Request must, within forty-five (45) days of the Class Administrator’s mailing of the Class Notice, mail, via United States Mail, to the Class Administrator at the address that the Class Administrator shall indicate in the Class Notice a document bearing the signature of such Settlement Class Member with words to the effect of: “I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS.” The Class Administrator shall give Class Counsel and Defendant’s counsel no less than weekly notice of the number of Class Members who have submitted Opt-Out Requests. On receipt, the Class Administrator shall forthwith send by email and U.S. mail to Defendant’s Attorneys and to Class Counsel copies of anything received that



1 purports to be an Opt-Out Request. Should any of the Parties wish to dispute  
2 the validity of any document purporting to be an Opt-Out Request, the Party  
3 shall notify the Class Administrator and all other Parties via e-mail and U.S.  
4 Mail within seven (7) days of receiving such documents, and in so doing they  
5 shall state the factual and legal basis for such dispute. Prior to the deadline for  
6 submitting its declaration described in paragraph 62 below, the Class  
7 Administrator shall make a determination as to the validity of the disputed Opt-  
8 Out Requests, and shall set forth its determinations in such declaration. The  
9 Class Administrator's decisions in such regard shall be final and binding. The  
10 Class Administrator shall by email and letter to Class Counsel and Defendant's  
11 Counsel provide notice as of the deadline to submit Opt-Out Requests whether  
12 the number of Class Members who elected to opt out of the Settlement as of the  
13 deadline to submit Opt-Out Requests and whose Opt-Out Requests survived  
14 any challenge exceeds seven-and-one-half (7.5) percent of the total Class. If the  
15 number of such Class Members equals or exceeds seven-and-one-half (7.5)  
16 percent of the total Class, then Defendant shall have the exclusive and absolute  
17 right (but not the obligation) to deem this Settlement Void *Ab Initio* only upon  
18 written notice filed with the Court and served on Class Counsel and the Class  
19 Administrator within seven (7) days of written notice that seven-and-one-half  
20 (7.5) percent or more of the Class Members have timely submitted Opt-Out  
21 Requests that have survived challenge. In the event Defendant exercises this  
22 right, Defendant will be solely responsible for any Class Administration Costs  
23 incurred to date. At any time before the earlier of the Defendant's written notice  
24 to declare the Settlement Void *Ab Initio* until two (2) business days before the  
25 deadline to file the motion for a Final Approval Order, a Settlement Class  
26 Member who has submitted an Opt-Out Request may withdraw it by written  
27 notice to the Class Administrator, which shall include the last four digits of the  
28 Settlement Class Member's social security number. The Class Administrator on

1 receipt of any document purporting to be a revocation of an Opt-Out Request  
2 shall forthwith email the document to Defendant's Counsel and Class Counsel.  
3 If so withdrawn, an Opt-Out Request shall not be counted toward whether seven  
4 and one-half (7.5) percent of the Class has submitted Opt-Out Requests  
5 according to the procedures set forth herein.

6 d) *Disputes Concerning Class Member Status:* Should any person who does not  
7 receive a Class Notice directed to him or her wish to come forward purporting  
8 to be a Class Member, such person shall notify the Class Administrator, no later  
9 than forty-five (45) days after the Class Administrator's initial mailing of the  
10 Class Notice Packets, via United States Mail, and provide any documentary  
11 support he or she wishes to have considered. The Class Administrator shall  
12 forthwith send any such documents to Class Counsel and Defendant's counsel  
13 via email and United States Mail. Upon receipt of such notice, Defendant shall  
14 forthwith investigate the matter, including with reference to its business  
15 records, and shall determine whether the person is a Class Member. Then,  
16 within ten (10) days of receipt of such notice, Defendant shall notify the Class  
17 Administrator and Class Counsel as to its determination of the person's status  
18 as a Class Member and include reasonably available documentary support for  
19 its position. The Class Administrator shall make a determination of the person's  
20 status as a Class Member, which shall be controlling. If the person is  
21 determined to be a Class Member, the Class Administrator shall mail that  
22 person a Notice Packet, whereupon the same procedures for submitting Class  
23 Member Objections and Opt-Out Requests set forth in this Agreement shall  
24 apply to such person. If such Class Member is a person whom Defendant  
25 employed in a Class Member position before the execution of this Agreement  
26 and who is not listed in Exhibit A hereto, then Defendant shall make an  
27 additional contribution to the Gross Settlement Fund corresponding to what  
28 would have been paid to such person if, with his or her employment history, he

1 or she was among the Class Members identified in Exhibit A.

2 e) *Disputes Concerning Class Member Information*: If for any reason a Class  
3 Member disagrees with the information stated in his or her Class Notice, such  
4 Class Member shall mail (via United States Mail) to the Class Administrator at  
5 the address listed in the Class Notice and within forty-five (45) days of the Class  
6 Administrator's mailing of such Class Notice, a written notice setting forth the  
7 Class Member's basis for such disagreement, including any and all documents  
8 supporting such basis. In the absence of a legible postmark, the date of mailing  
9 shall be three (3) days before receipt by the Class Administrator. Upon receipt  
10 of such notices, the Class Administrator shall forthwith send it to Class Counsel  
11 and Defendant's counsel, via e-mail and United States Mail. Defendant shall  
12 investigate the matter, including by examining its business records, and shall,  
13 within seven (7) days of receiving notice, advise Class Counsel and the Class  
14 Administrator as to its determination regarding the Class Member. In the event  
15 that the Class Member does not provide any supportive documentation,  
16 Defendant's determination and declaration as provided in paragraph 62 shall  
17 control. In the event that the Class Member does provide supportive  
18 documentation, Defendant shall, within the same seven (7) day period, either  
19 notify the Class Administrator and Class Counsel that it stipulates to the Class  
20 Member's assertion(s), or shall notify them that it disputes such assertion(s),  
21 and shall provide the Class Administrator and Class Counsel with its proposed  
22 determination, the factual basis therefor, and any supporting documentation.  
23 The Class Administrator shall then determine the dispute, which determination  
24 shall control, and shall provide the disputing Class Member, Defendant's  
25 Counsel, and Class Counsel with written notice of its decision by email and  
26 letter.

27 f) Named Plaintiff hereby agrees that he will not submit a Class Member Opt-Out  
28 Request on his own behalf. The Parties and Counsel further agree that they will

not encourage, incite or recommend that any Class Member object or opt out of the settlement. Any submissions by the Named Plaintiff purporting to be a Class Member Opt-Out Request shall be null and void.

g) Except as set forth in paragraph 61(d) above concerning Class Members who should have been disclosed in Exhibit A, no determinations by Defendant, the Class Administrator, the Court, or any other person or entity pursuant to this paragraph 61 shall have the effect of increasing the amount of the Net Settlement Fund to be distributed to Class Members. Rather, any additional amounts to be distributed to any Class Member as a result of the resolution of such disputes shall be made in conjunction with and subject to a proportionate reduction in other Eligible Class Members' Eligible Class Member Shares, with specific amounts to be determined by the Class Administrator.

62. Class Administration Procedures – Class Administrator Declaration. No later than two weeks before the date scheduled for filing the Motion for Final Approval (but in any case, no less than ten (10) days after the deadline to opt-out or object has expired), the Class Administrator shall provide Class Counsel and Defendant's counsel with the Class Administrator Declaration confirming the extent of the Class Administrator's performance of its Class Administration Duties described herein to be performed before the Final Approval Hearing and the Class' responses received to the Class Notices. The Class Administrator shall include in the declaration evidence supporting its requested award to be paid by Defendant for Class Administration Costs, including those not yet performed. If any duties remain unperformed, the Class Administrator, on request of either Class Counsel or Defendant's Attorneys, shall promptly supply supplemental Class Administrator Declaration(s) when performed, but in no case later than ten (10) days before the date that the Court schedules for a compliance hearing after the Effective Date.

63. Motion for Final Approval. According to the schedule the Court sets, Class Counsel shall file and serve upon Defendant a motion for Final Approval, which shall include with such filing, as provided herein, the Class Administrator's Declaration and the declaration of

1 Defendant's person-most-knowledgeable.

2 64. Adjustments to Net Settlement Fund Allocation and Increase of Gross Settlement  
 3 Fund as Conditions to Approval. If the Court does not approve the allocation proposed herein,  
 4 it shall be Plaintiffs' prerogative alone whether to proceed with the Settlement on the basis of a  
 5 different allocation of which the Court approves. In the event the Court does not approve the  
 6 allocation proposed herein, Plaintiffs within seven (7) days will file with the Court and serve on  
 7 Defendant and the Class Administrator a notice of whether Plaintiffs elect to treat this settlement  
 8 as Void *Ab Initio* or elects to propose a different allocation. If the Court deems the total amount  
 9 of Defendant's payment into the Gross Settlement Fund as provided herein insufficient for  
 10 purposes of Court approval of this settlement, it shall be Defendant's prerogative alone whether  
 11 to contribute more to the Gross Settlement Fund so as to obtain Court approval. In the event the  
 12 Court does not approve the overall amount of Defendant's contribution to the Gross Settlement  
 13 Fund, Defendant within seven (7) days will file with the Court and serve on Plaintiff and the  
 14 Class Administrator a notice of whether Defendant elects to treat this settlement as Void *Ab Initio*  
 15 or to pay a stated, additional amount to obtain Court approval. Any such statement to contribute  
 16 an additional amount shall be deemed binding on Defendant and incorporated into this  
 17 Agreement as a required additional payment to the Gross Settlement Fund.

18 65. Release. The Settlement includes a release of Released Claims against the  
 19 Released Parties. Each Eligible Class Member shall be deemed to have provided a release of  
 20 Released Claims against the Released Parties pursuant to the terms set forth in Exhibit "C" hereto.  
 21 Named Plaintiff shall execute a general release of all claims in favor of the Released Parties. The  
 22 Release shall not be effective until the Effective Date and Defendant's performance of this  
 23 Agreement.

24 66. Allocation of Net Settlement Fund Among Eligible Class Members and PAGA  
 25 Group Members. The Settlement is non-reversionary, and is not on a "claims made" basis. No  
 26 portion of the Settlement shall revert to, or become due and payable to, Defendant, or any person  
 27 or entity other than Eligible Class Members and the LWDA. The following will be the allocation  
 28 of the Net Settlement Fund assuming it is \$1.75 million and not subject to an upward adjustment

for Defendant's not including a Class Member in Exhibit A.

67. One hundred thousand dollars (\$100,000) is allocated to payment of the PAGA penalties that are subject to a 75%/25% allocation between, respectively, the State of California (LWDA) and the Net Settlement Fund distributed to PAGA Group Members. The remaining \$1,650,000 shall be allocated as follows.

68. After deducting the Named Plaintiff's Service Award, payment for Class Counsel Attorneys' Fees and Costs, and the Class Administration Costs from the \$1,650,000, the remaining balance shall constitute the Net Settlement Fund which will be distributed as described below.

69. The Settlement Administrator will calculate each Participating Class Member's number of workweeks and the total number of workweeks worked by all Participating Class Members using the Class Data provided by Defendant (as described in Paragraph 56). The Settlement Administrator will determine the Individual Settlement Payment for each Participating Class Member according to the following formulas:

a. **The Class.** The Net Settlement Fund shall be divided among all Participating Class Members. Each Participating Class Member shall receive a proportionate share that is equal to (i) the number of workweeks he or she worked during the Class Period multiplied by the Class Member's highest rate of pay, divided by (ii) the total number of workweeks worked by all Participating Class Members during the Class Period multiplied by the average of all Class Members' highest rates of pay.

b. **The PAGA Group.** From the \$100,000 allocated to PAGA penalties, one-quarter (25%) (\$25,000) shall be distributed to the PAGA Group Members. Each PAGA Group Member will receive a proportionate share of money allocated to the PAGA Group Members that is equal to (i) the number of workweeks he or she worked during the PAGA Period, divided by (ii) the total number of workweeks worked by all

PAGA Group Members during the PAGA Period. PAGA Group Members shall not be permitted to opt out of that portion of the Settlement that resolves Plaintiff's PAGA claims.

70. Once determined, each Individual Settlement Payment will be reduced by any required legal deductions, including tax and other required withholdings, for each Participating Class Member.

71. Taxation and Withholding; Settlement Checks.

a) *Allocation.* The Parties agree that 50% of the Net Settlement Fund paid to Eligible Class Members shall be allocated to Form W-2 wages, and 50% to penalties, interest, and other non-wages subject to Form 1099 reporting, and that the same allocations shall apply to each of the Eligible Class Member Shares. This allocation is for purposes of settlement only. The Class Administrator will pay from the Net Settlement Fund each Eligible Class Member's share of the settlement, employee taxes, deductions, contributions and other amounts required to be paid to government agencies and/or tax authorities, which amounts then shall be paid by the Class Administrator from the QSF. Defendant is responsible for payment of all employer payroll taxes and its own share of deductions, contributions and other amounts to be paid to government agencies and/or tax authorities. The Class Administrator shall also advise Defendant as to the amounts that Defendant is required to remit in terms of employer payroll taxes and its own shares of other taxes, deductions, contributions and other amounts required to be paid to government agencies and/or tax authorities. The payment of such taxes, deductions, contributions and other amounts shall be calculated based upon Defendant's reasonably available records. The Class Administrator shall provide reasonable notice to Defendant's Counsel of any records required for purposes of computing taxes, deductions, contributions and other amounts, and Defendant shall undertake reasonable efforts to provide the Class Administrator with same. Based on the

Class Administrator's calculations, Defendant shall deposit, as the Class Administrator requires for payment, into the Gross Settlement Fund such additional amounts necessary for the Class Administrator to pay Defendant's shares of payroll taxes, deductions, contributions and other amounts required to be paid to government agencies and/or tax authorities. The Class Administrator shall provide, as appropriate, an IRS Form W-2 and Form 1099, and any other tax documentation required by law, to each Eligible Class Member payee.

b) The Claims Administrator shall be solely responsible for: (i) complying with the reporting and any payment obligations imposed by Treasury Regulation § 1.468B-2(l)(2) on the QSF (as well as the reporting and any payment obligations to state and local tax authorities with respect to the Fund); (ii) paying any tax imposed on the QSF pursuant to Treasury Regulation § 1.468B-2(a) and other applicable provisions of Federal, state or local law imposing tax on the Fund; and (iii) preparing, filing, and issuing any required tax forms related to payments under this Settlement.

c) *Circular 230 Disclaimer.* Each of the Parties acknowledges and agrees that (1) no provision of this Agreement, and no written communication or disclosure between or among the Parties or their counsel and other advisers is or was intended to be, nor shall any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Circular 230 (31 CFR part 10, as amended); (2) each Party (a) has relied exclusively upon his, her or its own, independent legal and tax advisors for advice (including tax advice) in connection with this Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party or any Counsel or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any other Counsel or advisor to any other Party to avoid any tax penalty that may be imposed on that Party; and (3) no attorney or advisor to any other Party has imposed any limitation that protects



1 the confidentiality of any such attorney's or advisor's tax strategies (regardless  
2 of whether such limitation is legally binding) upon disclosure by the Party of  
3 the tax treatment or tax structure of any transaction, including any transaction  
4 contemplated by this Agreement. Neither Class Counsel nor Defendant or its  
5 Counsel are responsible for providing tax or financial advice, and Class  
6 Members are advised to seek independent professional advice as to the tax or  
7 financial consequences of any payment they receive, or may receive, as Class  
8 Members.

9 d) *No Effect on Employee Benefits.* The Eligible Class Member Shares shall be  
10 deemed not to be pensionable earnings and shall not have any effect on the  
11 eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday  
12 pay, retirement plans, etc.) of the Eligible Class Members. The Parties agree  
13 that any monetary settlement payments to such Eligible Class Members do not  
14 represent any modification of their previously credited hours of service or other  
15 eligibility criteria under any employee pension benefit plan or employee  
16 welfare benefit plan sponsored by the Released Parties. Any amounts paid  
17 pursuant to this Agreement, shall not be considered "compensation" in any year  
18 for purposes of determining eligibility for, or benefit accrual within, an  
19 employee pension benefit plan or employee welfare benefit plan sponsored by  
20 the Released Parties.

21 e) *Check Expiration.* The expiration date of any instruments of payment (such as  
22 checks) issued by the Class Administrator to Eligible Class Members and  
23 PAGA Group Members will be one hundred eighty (180) days from the date  
24 such instruments are issued. Within two hundred ten (210) days after the date  
25 of mailing of the settlement checks and no later than ten (10) days before the  
26 date the Court schedules a compliance hearing, the Class Administrator shall  
27 provide to Class Counsel and Defendants' Counsel a Class Administrator  
28 Declaration signed under penalty of perjury that it has mailed the settlement

checks to Eligible Class Members, PAGA Group Members, and the cy pres beneficiary as defined below.

f) Any remainder from the Net Settlement Fund, *i.e.*, uncashed checks delivered to Participating Class Members by the Settlement Administrator pursuant to the terms of this Agreement, after reasonable efforts have been made to locate Class Members, will be paid to Legal Aid at Work, a nonprofit organization that furthers the objectives and purposes underlying this case and that provides civil legal services to the indigent.

g) Upon entry of the Preliminary Approval Order, the Claims Administrator shall forthwith establish all financial accounts necessary to establish the Qualified Settlement Fund, and shall promptly notify Defendant's Counsel and Class Counsel by email and U.S. Mail that such accounts have been established and of the payment details necessary to fund the Qualified Settlement Fund. Within no later than seven (7) days after entry of the Final Approval, even if before the Effective Date, Defendant shall deposit with the Class Administrator into the QSF fund the Net Settlement Fund. This consists of one million, seven hundred and fifty thousand dollars (\$1,750,000) and such additional funds as necessary to pay Class Members not identified in Exhibit A as set forth in paragraph 61(d). Within ten (10) days after the Effective Date, the Class Administrator shall disburse the corresponding Eligible Class Member Shares to each Eligible Class Member as well as the LWDA Fund to the LWDA. The Claims Administrator shall promptly notify Class Counsel and Defendant's Counsel by email and U.S. mail that such disbursements have been made and, no later than seven (7) days after the distribution of Class Member Shares provide a Class Administrator Declaration confirming such. On the Class Administrator's request, but no earlier than Final Approval of this Agreement, Defendant forthwith shall deposit with the Class Administrator into the QSF such funds as the Class Administrator determines are necessary for the Class Administrator

1 to pay Defendant's tax, fees, contributions, and withholdings as provided  
2 herein.

3 72. The Class Administrator shall refund to Defendant the above-described payments  
4 in the event the Settlement becomes Void *Ab Initio* as provided herein or does not obtain Final  
5 Approval. Before making such refund, the Class Administrator shall notify Class Counsel and  
6 Defendant's Counsel by letter and email of its intention to do so. Unless within three (3) business  
7 days, Class Counsel provides written notice to the Class Administrator and Defendant's Counsel  
8 that Plaintiffs object to the refund and Plaintiffs file with the Court and serve on Defendant and  
9 the Class Administrator within seven (7) days of the Class Administrator's notice of intent to  
10 refund an objection to the refund, the Class Administrator shall promptly affect the refund.  
11 Plaintiffs may also waive any objection to refund and thereby accelerate when the refund can  
12 occur by written notice to the Class Administrator and Defendant's Counsel. If Plaintiffs timely  
13 file and serve an objection to the refund, the Class Administrator shall not make the refund until  
14 the Court rules on the objection. Within seven (7) days of entry of the Final Approval Order or  
15 such other date as the Court orders, Defendant forthwith shall deposit with the Class  
16 Administrator funds that are reasonable and necessary to pay for Class Administration Costs.

17 73. Class Counsel Attorney Fees and Costs / Named Plaintiff Service Award. Class  
18 Counsel may request a reasonable award of attorneys' fees and costs from the Court which will  
19 compensate Class Counsel for fees and costs incurred for work already performed in this Action,  
20 the work remaining to be performed in documenting the Settlement Agreement, securing Court  
21 approval of the Settlement Agreement, administering the Settlement Agreement, obtaining  
22 dismissal of the Action with prejudice, and defending against any appeals, as well as all  
23 associated expenses. The amount awarded to Class Counsel shall be left to the discretion of the  
24 Court. Class Counsel will submit an application for Attorneys' Fees and Costs to the Court for  
25 approval prior to the date of the Final Approval Hearing. The Parties agree that, over and above  
26 the total amount of court-approved Attorneys' Fees and Costs award in this Class Action, the  
27 Parties will bear their own fees and costs. The Parties agree that Class Counsel shall be solely  
28 responsible for the division and distribution of any and all Court-approved Attorneys' Fees and

Costs awarded in the Class Action to Class Counsel, and that Class Counsel agree to release Defendants and the Released Parties from any responsibility for or liability arising out of or related to the division and distribution of any Court-approved Attorneys' Fees and Costs to Class Counsel. In the event that the Court denies, modifies, or reduces Class Counsel's request for Attorneys' Fees and Costs, then Plaintiffs, Class Counsel, and the Settlement Class Members may not seek to modify, revoke, cancel, terminate, or void this Settlement Agreement and will not seek, request, or demand an increase in the Settlement Amount. All claims for attorneys' fees or costs or expenses arising out of the Class Action that Class Counsel and Plaintiffs may possess against Defendants have been compromised and resolved in this Settlement Agreement.

74. In addition to the amounts determined to be due to the Named Plaintiff as Settlement Class Member under this Settlement Agreement, Class Counsel and Plaintiff intend to apply to the Court for a Service Award for Named Plaintiff, in the total amount of no more than ten thousand dollars (\$10,000). Plaintiff intends to request an enhancement for Plaintiff's role in prosecuting the Class Action, taking the risks of serving as the named representative (particularly as a current employee of Defendant), providing factual information and documentation necessary to the prosecution of the Class Action, attending a settlement conference, agreeing to a general release of all claims, maintaining contact with Class Counsel, and other participation necessary to the successful prosecution of the Class Action. Any such application shall be filed concurrently with Class Counsel's application for Attorneys' Fees and Costs. Any Service Award approved by the Court in conjunction with the Settlement shall be paid from the Gross Settlement Fund and shall reduce the amount of the Net Settlement Fund payable to the Settlement Class Members. Defendant will not oppose a request up to \$10,000 for a Service Award for the Named Plaintiff. The Service Award will be reported to the IRS on a Form 1099. In the event that the Court denies, modifies, or reduces any request for a Service Award, Named Plaintiff, Class Counsel, and the Settlement Class Members may not seek to modify, revoke, cancel, terminate, or void this Settlement Agreement and will not seek, request, or demand an increase in the Settlement Amount.

75. Cooperation and Reasonable Modifications. The Parties pledge their good faith

1 and fair dealing in supporting the approval of this Settlement by the Court. The Parties and their  
2 respective counsel will cooperate reasonably and in good faith for the purpose of achieving  
3 occurrence of the conditions set forth in this Agreement, including without limitation, timely  
4 filing of all motions, papers and evidence necessary to do so, and refraining from causing or  
5 encouraging directly or indirectly the submission of any objection to this Agreement, the  
6 submission of any Class Member Objection or Opt-Out Request, or any appeal or petition for  
7 writ proceedings seeking review of any order or judgment contemplated by the Settlement. This  
8 Agreement contemplates that the Court and the Parties may make reasonable modifications to  
9 the Agreement in order to affect its essential terms and to obtain Preliminary Approval and Final  
10 Approval. Such modifications shall not render this Agreement Void *Ab Initio*, but rather the  
11 Parties shall stipulate to such reasonable modifications and take all necessary steps to give them  
12 effect. Any failure of any Party, Defense Counsel, and/or Class Counsel to comply with any  
13 obligation, covenant, agreement, or condition of this Agreement may be expressly waived in  
14 writing, to the extent permitted under applicable law, by the Party or Parties and their respective  
15 Counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver  
16 or failure to insist upon strict compliance with any representation, warranty, covenant,  
17 agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any  
18 subsequent or other failure.

19 76. Warranty of Authority. The undersigned each represent and warrant that each has  
20 authority to enter into this Settlement, and that by doing so they are not in breach or violation of  
21 any agreement with any third parties. The parties, however, recognize that this Agreement is  
22 subject to Court approval.

23 77. Other Actions Enjoined. Defendant shall have the right to request, and Named  
24 Plaintiff will not oppose, that the Court enter an order that pending Final Approval, Class  
25 Members who do not submit Opt-Out Requests are barred from instituting or prosecuting any  
26 claims or actions against the Released Parties which fall within the definition of the Released  
27 Claims and that any pending actions against the Released Parties, whether in court or arbitration,  
28 are stayed on an interim basis only as to any claims which fall within the definition of the

Released Claims.

78. [RESERVED].

79. Enforcement. The Parties agree that upon the occurrence of the Effective Date, this Agreement shall be permanently enforceable by the Court and the Court shall retain jurisdiction over the Parties and the Class Members to enforce the terms, conditions and obligations of the Agreement, including after entry of Judgment and that this Court be deemed the exclusive forum concerning the enforcement of this Agreement.

80. Notices to Counsel. All notices, requests, demands and other communications required or permitted to be given pursuant to this Agreement shall be in writing and shall be delivered personally or mailed, postage prepaid, by first-class United States mail, to counsel for the undersigned persons at their respective addresses set forth in the caption of this Settlement Agreement or to such other location as provided pursuant to written notice, except insofar as it is provided herein that email notice be also provided or e-mail notice is authorized for the notice.

81. Entire Agreement. This Agreement embodies the entire agreement of all the Parties hereto who have executed it and supersedes any and all other agreements, understandings, negotiations, or discussions, either oral or in writing, express or implied, including the Memorandum of Understanding, between the Parties to this Agreement. The Parties to this Agreement each acknowledge that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by them, or anyone acting on their behalf, which are not embodied in this Agreement; that they have not executed this Agreement in reliance on any representation, inducement, promise, agreements, warranty, fact or circumstances, not expressly set forth in this Agreement; and that no representation, inducement, promise, agreement or warranty not contained in this Agreement including, but not limited to, any purported settlements, modifications, waivers or terminations of this Agreement, shall be valid or binding, unless executed in writing by all of the Parties to this Agreement. This Agreement may be amended, and any provision herein waived, but only in writing, signed by the Party against whom such an amendment or waiver is sought to be enforced.

82. Counterparts. This Agreement may be executed in counterparts by way of true



1 and correct copies (including pdf's or other electronic images) of signatures, each of which shall  
2 have the same force and effect as an original, and all of which together shall constitute one and  
3 the same instrument.

4 83. AMC will comply with the notice requirements of the Class Action Fairness Act,  
5 28 U.S.C. § 1715, within 10 days of the filing of this Motion, and will file a proof of service with  
6 the Court indicating such compliance before the preliminary approval hearing.

7  
8  
9 DATE: 3-30-20



10 EVAN TOOLAJIAN  
11 PLAINTIFF AND CLASS REPRESENTATIVE

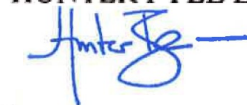
12 DATE: \_\_\_\_\_

13 \_\_\_\_\_  
14 CHRISTOPHER BRADY  
15 For Defendant AIR METHODS  
16 CORPORATION, in his/her capacity as its  
17 Associate General Counsel

18 APPROVED AS TO FORM AND CONTENT:

19 HUNTER PYLE LAW

20 DATE: March 31, 2020



21 HUNTER PYLE  
22 Attorney for Plaintiff

23 DATE: April 1, 2020

24 OLIVIER SCHREIBER & CHAO LLP



25 MONIQUE OLIVIER  
26 Attorneys for Plaintiff


1 and correct copies (including pdf's or other electronic images) of signatures, each of which shall  
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5 28 U.S.C. § 1715, within 10 days of the filing of this Motion, and will file a proof of service with  
6 the Court indicating such compliance before the preliminary approval hearing.

7  
8  
9 DATE: \_\_\_\_\_

\_\_\_\_\_  
EVAN TOOLAJIAN  
PLAINTIFF AND CLASS REPRESENTATIVE

10  
11  
12 DATE: 4/3/2020

  
\_\_\_\_\_  
CHRISTOPHER BRADY  
For Defendant AIR METHODS  
CORPORATION, in his/her capacity as its  
Associate General Counsel

13  
14  
15  
16 APPROVED AS TO FORM AND CONTENT:

HUNTER PYLE LAW

17  
18  
19 DATE: \_\_\_\_\_

\_\_\_\_\_  
HUNTER PYLE  
Attorney for Plaintiff

20  
21  
22 OLIVIER SCHREIBER & CHAO LLP

23  
24 DATE: \_\_\_\_\_

\_\_\_\_\_  
MONIQUE OLIVIER  
Attorneys for Plaintiff



FISHER & PHILLIPS LLP

DATE: \_\_\_\_\_



\_\_\_\_\_  
LONNIE D. GIAMELE

CHRISTOPHER M. AHEARN

SEAN T. KINGSTON

Attorneys for Defendant AIR METHODS  
CORPORATION